

for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923. Misbranding was alleged for the reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On June 28, 1933. C. H. Weaver & Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant to be reworked, upon payment of costs and the execution of a bond in the sum of \$1,000, conditioned that it should not be sold or otherwise disposed of contrary to the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

**21255. Adulteration of walnuts. U. S. v. Louis Groobman (Whittier Walnut Packing Co.). Tried to the court and a jury. Verdict for the Government. Fine, \$50 and costs. (F. & D. no. 29407. I.S. no. 41291.)**

This case was based on an interstate shipment of walnuts that were found to be in part wormy, moldy, rancid, and shriveled.

On January 18, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Louis Groobman, trading as the Whittier Walnut Packing Co., Whittier, Calif., alleging shipment by said defendant on or about December 3, 1931, from the State of California into the State of Nebraska of a quantity of walnuts that were adulterated. The article was labeled in part: "California Walnuts Evergreen Packed By Whittier Walnut Packing Co., Whittier, Calif."

It was alleged in the information that the article was adulterated in that it consisted in part of filthy, putrid, and decomposed vegetable and animal substances.

On July 26, 1933, the case having come on for trial before a jury and evidence having been introduced on behalf of the defendant and the Government, the jury returned a verdict of guilty, and on July 31, 1933, the court sentenced the defendant to pay a fine of \$50 and costs in the amount of \$680.68.

M. L. WILSON, *Acting Secretary of Agriculture.*

**21256. Adulteration of apples. U. S. v. 109 Boxes of Apples. Default decree of condemnation. Product destroyed. (F. & D. no. 30106. Sample no. 35747-A.)**

This action involved a shipment of apples that bore excessive lead spray residue.

On March 30, 1933, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 109 boxes of apples at Omaha, Nebr., alleging that the article had been shipped on or about March 16, 1933, by the Tyrrell Brown Co., from Wenatchee, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Foot-print Brand Apples \* \* \* From Foothills of the Cascades. Packed and Shipped by Tyrrell Brown Co. Wenatchee, Wash."

It was alleged in the libel that the article was adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On June 30, 1933, no claimant having appeared for the property, judgment of condemnation was entered, the decree provided that the apples might be delivered to the Veterans Hospital at Lincoln, Nebr., on condition that they be peeled or washed to remove the spray residue, under the supervision of a State official. On July 6, the apples, having been found to be decomposed and unfit for food, were destroyed, which destruction was approved by the court on July 31, 1933.

M. L. WILSON, *Acting Secretary of Agriculture.*

**21257. Adulteration and misbranding of olive oil. U. S. v. Eleven 1-Gallon Cans of Oil. Default decree of condemnation and destruction. (F. & D. no. 30042. Sample no. 35084-A.)**

This case involved the interstate shipment of a quantity of oil which was labeled to convey the impression that it was imported olive oil but which consisted chiefly of cottonseed oil of domestic origin.

On April 4, 1933, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eleven 1-gallon cans of oil at Canton, Ohio, alleging that the article had been shipped in interstate commerce by the Oriental Products Co., from Canton, Ohio, to Grand Rapids, Mich., that it had been refused by the consignee and had been returned to Canton, Ohio, and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Olio D'Oliva Misto Santa Maria Brand N.U.S.P. Packed in U.S.A. By Santa Maria Olive Oil Company. \* \* \* Questo Olio D'Oliva." The label also bore designs of olive branches and the Italian national colors.

It was alleged in the libel that the article was adulterated in that cottonseed oil had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength and had been substituted wholly or in part for the article.

Misbranding was alleged for the reason that the statements, "Olio D'Oliva" and "Questo Olio D'Oliva", the designs of olive branches, and the Italian national colors in the main color scheme of the principal panel of the can label were false and misleading and deceived and misled the purchaser when applied to an article consisting chiefly of cottonseed oil of domestic origin. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so, and for the further reason that it was offered for sale under the distinctive name of another article.

On July 11, 1933, no claimant having appeared for the property, judgment of condemnation was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

**21258. Misbranding of olive oil. U. S. v. 96 Cases of Olive Oil. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. no. 30355. Sample no. 31715-A.)**

This case involved a shipment of olive oil, sample cans of which were found to contain less than the declared volume, 1 gallon.

On April 27, 1933, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 96 cases of olive oil at Brooklyn, N.Y., alleging that the article had been shipped in interstate commerce on or about April 1, 1933, by the American Trust Co., from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Madonna Brand Pure Olive Oil Packed by Riverbank Canning Co., Riverbank, California Net Contents One Gallon."

It was alleged in the libel that the article was misbranded in that the statement on the can label, "Net Contents One Gallon", was false and misleading and deceived and misled the purchaser, since the cans contained less than 1 gallon. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the statement made was incorrect.

On May 17, 1933, the Riverbank Canning Co., Riverbank, Calif., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$1,000, conditioned that the cans be filled to full volume.

M. L. WILSON, *Acting Secretary of Agriculture.*

**21259. Misbranding of canned cherries. U. S. v. 600 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 30553. Sample nos. 29507-A, 29549-A.)**

This case involved a shipment of canned cherries which fell below the standard established by this Department, since they were water-packed cherries, and which were not labeled to indicate that they were substandard.

On June 1, 1933, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 600 cases of canned